

United States Department of Agriculture,

OFFICE OF THE SECRETARY,

BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NOS. 12-17, FOOD AND DRUGS ACT.

- 12. Misbranding of Flour (Hard spring wheat mixed with durum).
- 13. Misbranding of Flour (As to place and manner of manufacture).
- 14. Misbranding of Vanilla Extract (Imitation colored with caramel).
- 15. Adulteration and Misbranding of Whiskey (Neutral spirits artificially colored).
- 16. Misbranding of a Drug Product (Sartoin Skin Food).
- 17. Misbranding of Flour (As to place of manufacture and name of manufacturer).

(N. J. 12.)

MISBRANDING OF FLOUR.

(Hard spring wheat mixed with durum.)

Under authority of section 4 of the Food and Drugs Act, June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the aforesaid act, notice is given that on the 9th day of May, 1908, in the United States district court for the northern district of Illinois, eastern division, in a proceeding of libel for condemnation against divers sacks of flour labeled and branded "AXA Highest Patent, The Gardner Mill, Seymour Carter, Hastings, Minn. Flour manufactured from Finest Selected Hard Spring Wheat," wherein the United States was libellant and Seymour Carter claimant, the cause having come on for a hearing and the defendant having failed to show cause against condemnation, a decree adjudging the product misbranded was rendered, in substance and form as follows:

In the District Court of the United States of America for the Northern District of Illinois, Eastern Division.

UNITED STATES OF AMERICA

vs.

ONE CARLOAD OF FLOUR, CONTAINED IN WABASH CAR NO. 71188.

} 9988.

This cause coming on to be heard upon the motion of Edwin W. Sims, United States attorney for the northern district of Illinois, for leave to amend the

information herein by striking out, in the twelfth line of said information, the words "adulterated and" and by adding to the prayer in said information, after the words "or sale," the words "or otherwise disposed of," said motion is, by agreement of the parties, hereby allowed, and said information is so amended.

And this cause coming on further to be heard upon said information as amended, the answer of the claimant, Seymour Carter, heretofore filed, which is ordered to stand as the answer of the claimant to the information as amended and upon the replication of the United States thereto, said claimant waiving a trial by jury.

The court finds that it has jurisdiction of this cause and of the respective parties hereto.

And the court being fully advised in the premises and having heard the arguments of counsel, finds that said carload of flour in Wabash car No. 71188 contained certain sacks of flour which were branded: "AXA Highest Patent, The Gardner Mill, Seymour Carter, Hastings, Minn. Flour manufactured from Finest Selected Hard Spring Wheat."

The court further finds that there was contained in said sacks flour manufactured from and containing approximately fifteen per cent durum wheat and eighty-five per cent hard spring wheat and that the same was being transported from the State of Minnesota to the State of Ohio through this division and district; the court further finds that said durum wheat is not what is commonly known and classified as hard spring wheat, and that flour made from a mixture of durum and hard spring wheat is misbranded under the Food and Drugs Act of June 30, 1906, if it be labeled "Flour manufactured from finest selected hard spring wheat," and that by reason thereof said flour contained in Wabash car No. 71188 was misbranded within the meaning of the act of June 30, 1906, known as the Food and Drugs Act, as alleged in said information as amended.

It is therefore ordered, adjudged, and decreed that upon payment of the costs of this libel proceeding, the bond heretofore given by the claimant to produce said flour upon the order of this court be canceled upon the claimant, Seymour Carter, entering into a bond with sureties to be approved by the clerk of this court, in the sum of two thousand dollars, conditioned that said claimant, his agents, or attorneys shall not dispose of said flour contained in Wabash car No. 71188, in violation of the act of June 30, 1906, known as the Food and Drugs Act.

K. M. LANDIS.

Entered May 9, 1908.

The facts concerning the case are as follows: On or about January 17, 1908, an inspector of the Department of Agriculture reported the introduction into interstate commerce of a carload of 96-pound cotton sacks of flour, billed to Seymour Carter, Greenville, Ohio, care Wabash Railroad avenue, Chicago, Ill., in a Wabash Railroad Company car, No. 71188. The flour was branded as follows: "AXA Highest Patent, The Gardner Mill, Seymour Carter, Hastings, Minn. Flour manufactured from Finest Selected Hard Spring Wheat," whereas, in truth and in fact, the wheat from which the product was milled contained approximately 15 per cent of durum wheat. Under the standards set by the board of grain appeals for the State of Minnesota, and under the common acceptance of the terms, hard spring wheat is "bright, well cleaned, and composed mostly of Hard

Scotch Fife, to weigh not less than 58 pounds to the measured bushel." It follows that a flour made in whole or in part from durum wheat should not be branded as being milled from "hard spring wheat." The flour in question appeared to be misbranded within the terms of section 8 of the act, and on January 17, 1908, the Secretary of Agriculture reported the facts to the United States attorney for the northern district of Illinois. A libel for seizure and condemnation in the nature of an information was filed by the United States attorney, under section 10 of the act, and the flour was seized by the United States marshal. The claimant, Seymour Carter, in answer, admitted that the product in question was made in part from durum wheat, and the branding as set forth in the libel, but denied that it was subject to confiscation under the food and drugs act. The court having been fully advised in the premises, and having heard the argument of counsel, adjudged the flour misbranded and upon the filing of a good and sufficient bond, in accordance with section 10 of the act, and under the provisions of the decree hereinbefore set forth, the goods were duly released to the claimant.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. MCCABE,

Board of Food and Drug Inspection.

Approved:

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., June 16, 1908.

(N. J. 13.)

MISBRANDING OF FLOUR.

(As to place and manner of manufacture.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 10th day of June, 1908, in the supreme court of the District of Columbia, in a proceeding of libel for condemnation of 240 sacks, more or less, of misbranded flour, that is to say, flour manufactured in Ohio and made from wheat grown in the same State, but which was labeled and branded "Paragon Minnesota Cream Roller Process," wherein the United States were libelants and the Orrville Milling Company of Orrville, Ohio, was claimant, the cause having come on for a hearing and the Orrville Milling Company having defaulted in fil-